

2000

# A.K. and R. Whipple Plumbing and Heating v. Thomas D. Guy, Aspen Cosntruction : Petition for Rehearing

Utah Court of Appeals

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Steven B. Wall; Wall and Wall; Attorney for Appellee.

Joseph M. Chambers; Harris, Preston and Chambers; Attorneys for Appellants.

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## Recommended Citation

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**IN THE UTAH COURT OF APPEALS**

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A.K. & R. WHIPPLE PLUMBING  
AND HEATING,

**Plaintiff/Appellee,**

**vs.**

THOMAS D. GUY and ASPEN  
CONSTRUCTION, a Utah corporation,

**Defendants/Appellants.**

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Priority No. 15

No. 20001009 – CA

Trial Court Case:  
940300014CN

**PETITION FOR REHEARING**

Appeal from an Order of the  
Third Judicial District Court  
Summit County, Utah  
The Honorable Frank G. Noel, Presiding

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Joseph M. Chambers (0612)  
HARRIS, PRESTON & CHAMBERS  
31 Federal Avenue  
Logan, UT 84321

Attorneys for Defendants/Appellants

**Steven B. Wall**  
**WALL & WALL**  
5200 South Highland Drive, Suite 300  
Salt Lake City, UT 84117

Attorney for Plaintiff/Appellee

**FILED**  
Utah Court of Appeals

APR - 1 2002

**Paulette Stagg**  
Clerk of the Court

Tab 1

A.K. & R. WHIPPLE PLUMBING & HTG.  
#47 SOUTH 1000 WEST  
SALT LAKE CITY, UTAH 84104  
(801) 359-7141

00387097 BR00751 Pg00363-0036

ALAN SPRIGGS, SUMMIT COUNTY RECORDER  
1993 SEP 14 11:30 AM FEE \$10.00 BY D  
REQUEST: INTERMOUNTAIN LIEN SERVICES

NOTICE OF CLAIM OF LIEN  
"Mechanic's Lien"

NOTICE IS HEREBY GIVEN by INTERMOUNTAIN LIEN SERVICES, the under-  
signed acting as the duly authorized agent of A.K. & R. WHIPPLE  
PLUMBING AND HEATING, "lien claimant". Said agent hereby gives  
notice of the intention of said claimant to hold and claim a  
mechanic's lien and right of claim against bond, by virtue and in  
accordance with the provisions of Sections 38-1-3 et. seq., and  
14-1-13 et. seq. Utah Code Annotated 1953, as amended. That said  
lien is against the property and improvements thereon owned or  
reputed to be owned by THOMAS D. GUY. Said property is located at  
77 Thaynes Canyon Drive, Park City, Summit County, Utah.

Legal Description:

Parcel #TH8-1

All of Lot 1, THAYNES CANYON SUBDIVISION #8, according to the  
official plat thereof as filed in the office of the Summit County  
Recorder, Coalville City, Utah.

The lien claimant was employed by and did provide labor and/or  
materials (H.V.A.C.) at the request of ASPEN CONSTRUCTION for the  
benefit and improvement of said real property. That first labor or  
materials were provided on April 27, 1993 and the last said labor  
and/or materials were provided on August 1, 1993. That there is  
due and owing to said claimant the sum of Thirty Thousand Six  
Hundred Forty-seven dollars and Twenty cents (\$30,647.20), together  
with interest, costs of \$100.00 and attorney fees, if applicable;  
all for which the lien claimant holds and claims this lien.

INTERMOUNTAIN LIEN SERVICES,  
Agent for the lien claimant.

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

by:

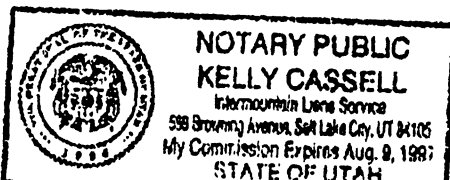
*Anthony L. Scarborough*  
Anthony L. Scarborough

On September 9, 1993, personally appeared before me Anthony L.  
Scarborough, doing business as INTERMOUNTAIN LIEN SERVICES, the  
Company that executed the above and foregoing instrument as agent  
for the lien claimant, and that said instrument was signed in  
behalf of said Company and that said Anthony L. Scarborough  
acknowledged to me that said Company executed the same.

N WITNESS HEREOF, I have herein set my hand and affixed my seal.

My Commission Expires:  
August 9, 1997

*Kelly Cassell*  
Notary Public, residing in  
Salt Lake City, Utah.



INTERMOUNTAIN LIEN SERVICES. P.O. Box 6055 S. L. C. UT 84105

INTERMOUNTAIN LIEN SERVICES  
P.O. Box 526065  
Salt Lake City, UT 84152-6065  
(801) 486-6672 - Fax 466-2155

September 17, 1993

CERTIFIED NO. P 301 439 460

Thomas D. Guy  
P.O. Box 680728  
Park City, UT 84060

Re: Lien Against: 77 Thaynes Canyon Drive, Park City, UT  
Lien Claimant: A.K.&R. Whipple Plumbing, Salt Lake City, UT  
Contracting Party: Aspen Construction, Salt Lake City, UT

Gentlemen/Ladies:

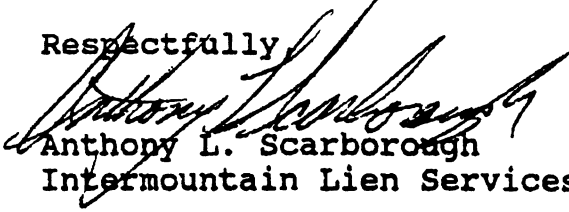
Please be advised, that the attached Mechanic's Lien has been filed at the request of the aforesaid "Lien Claimant". The Lien is intended to secure for the payment of work, equipment or materials provided for the improvement of your property and establishes legal rights granted to a contractor or supplier, pursuant to Utah State Statutes.

This Mechanic's Lien will be released from the County Records upon payment of all monies due to the claimant. If the obligation is not paid, they reserve the right to take further action to enforce their right of lien or claim against bond.

However, it is the claimants preference that litigation be avoided. We believe that all parties would be best served if you would prevail upon the contracting party to promptly satisfy this account. Alternatively, you may wish to pay the claimant directly.

Your acknowledgement and future correspondence should be made directly to the claimant. Please contact Kent Whipple of A.K.&R. Whipple Plumbing & Heating at (801) 359-7141, as all matters regarding this debt are handled by them. Thank you.

Respectfully,

  
Anthony L. Scarborough  
Intermountain Lien Services

ALS/kc

enclosure

cc: A.K.&R. Whipple Plumbing & Heating  
Aspen Construction  
File

Tab 2

## **JOB ORDER**

<b><u>JOB DESCRIPTION</u></b>		<b><u>AMOUNTS</u></b>
1)	<b><i>Laterals</i></b>	<b><i>\$10,200.00</i></b>
2)	<b><i>Thomas Guy Poolhouse</i></b>	<b><i>\$ 1,665.92</i></b>
3)	<b><i>Diane Quinn Sump Pump</i></b>	<b><i>\$ 1,100.00</i></b>
4)	<b><i>Municipal Water Re-location</i></b>	<b><i>\$ 6,660.80</i></b>
5)	<b><i>French Drains 77 Thaynes</i></b>	<b><i>\$ 3,162.05</i></b>
6)	<b><i>Backhoe 77 Thaynes Canyon Dr.</i></b>	<b><i>\$ 780.00</i></b>
7)	<b><i>Pool House Miscellaneous</i></b>	<b><i>\$ 65.00</i></b>
8)	<b><i>Diane Quinn Gas Line</i></b>	<b><i>\$ 631.00</i></b>
9)	<b><i>77 Thaynes House Plumbing</i></b>	<b><i>\$13,358.00</i></b>
10)	<b><i>77 Thaynes House Heating</i></b>	<b><i>\$12,265.50</i></b>
11)	<b><i>77 Thaynes House Gas Piping</i></b>	<b><i>\$ 1,015.00</i></b>

<b>TOTAL</b>	<b>\$50,968</b>
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<b><u>LEINS</u></b>		<b><u>AMOUNTS</u></b>
1)	<b><i>77 Thaynes Canyon Drive</i></b>	<b><i>\$30,647.20</i></b>
2)	<b><i>Diane Quinn Residence</i></b>	<b><i>\$ 631.00</i></b>
3)	<b><i>Thomas Guy Pool House</i></b>	<b><i>\$ 1,695.92</i></b>

<b>TOTAL LIENS</b>	<b>\$32,974.12</b>
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<b>TOTAL JOBS</b>	<b>\$50,968.27</b>
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<b>LESS PAYMENTS</b>	<b>\$ 7,000.00</b>
	<b>\$ 7,000.00</b>
	<b><u>\$ 3,000.00</u></b>

<b>PRINCIPLE BALANCE DUE</b>	<b>\$33,968.27</b>
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